

Amendments to House Bill No. 13
1st Reading Copy

Requested by Representative John Sinrud

For the House Appropriations Committee

Prepared by Greg Petesch
February 12, 2007 (4:31pm)

1. Title, line 8.

Following: "AGENCIES;"

Insert: "PROHIBITING THE TRANSFER OF FUNDS FOR PURPOSES OF
FUNDING PERSONAL SERVICES PAY INCREASES;"

2. Title, line 14.

Following: "15-2-102,"

Insert: "17-7-102, 17-7-138, 17-7-139,"

3. Page 6, line 17.

Following: "2-18-104."

Insert: "The broadband classification plan must provide for pay
based upon employee performance. An employee's performance
must be evaluated by an annual performance appraisal."

4. Page 8, line 6.

Following: "position."

Insert: "Each position must have a current job description."

5. Page 9, line 4.

Following: "ranges."

Insert: "Subject to a collective bargaining agreement, if
applicable, the initial market rate used in establishing
occupational pay ranges may not exceed 85% of the market as
identified in the approved market survey used in
establishing occupational pay ranges. This subsection does
not require a reduction in pay for an employee whose pay
exceeds the initial market rate. Occupational pay ranges
must be the same for similar jobs in all agencies."

6. Page 9, line 15.

Following: "plan"

Insert: "-- report"

7. Page 12, line 6.

Following: "~~2007~~." on line 5

Insert: "(7) The department shall prepare an annual report on
the recruitment and retention of state employees."

8. Page 17, line 23.

Insert: "Section 20. Section 17-7-102, MCA, is amended to read:

"17-7-102. Definitions. As used in this chapter, the following definitions apply:

- (1) "Additional services" means different services or more of the same services.
- (2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.
- (3) "Approving authority" means:
 - (a) the governor or the governor's designated representative for executive branch agencies;
 - (b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;
 - (c) the speaker for the house of representatives;
 - (d) the president for the senate;
 - (e) appropriate legislative committees or a designated representative for legislative branch agencies; or
 - (f) the board of regents of higher education or its designated representative for the university system.
- (4) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.
- (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.
- (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.
- (7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.
- (8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.
- (9) (a) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding.
 - (b) For Subject to subsection (9)(c), for purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed

expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(c) Any adjustment to the personal services portion of the base budget in excess of the funding provided in the fully funded pay plan approved by the previous legislature must be considered a new proposal. For the purposes of this subsection (9)(c), the fully funded pay plan is the aggregate amount appropriated for personal services by the previous legislature for a department, agency, or program, including present law adjustments.

(10) "Present law base" means, subject to subsection (9)(c), that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

(a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell."

{ Internal References to 17-7-102:

2-18-1107 x	5-12-303 x	17-2-108 x	17-2-301x
17-2-301x	17-7-138 x	53-20-171x	75-10-621x }

Insert: "Section 21. Section 17-7-138, MCA, is amended to read:

"17-7-138. Operating budget. (1) (a) Expenditures by a state agency must be made in substantial compliance with the budget approved by the legislature. Substantial compliance may be determined by conformity to the conditions contained in the general appropriations act and to legislative intent as established in the narrative accompanying the general appropriations act. An explanation of any significant change in agency or program scope must be submitted on a regular basis to the interim committee that has program evaluation and monitoring functions for the agency pursuant to Title 5, chapter 5, part 2. An explanation of any significant change in agency or program scope, objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment by the

legislative finance committee prior to any implementation of the change. A significant change may not conflict with a condition contained in the general appropriations act. If the approving authority certifies that a change is time-sensitive, the approving authority may approve the change prior to the next regularly scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed time-sensitive changes to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines that notification of the legislative finance committee is warranted, the legislative fiscal analyst shall immediately notify as many members as possible of the proposed change and communicate any concerns expressed to the approving authority. The approving authority shall present a report fully explaining the reasons for the action to the next meeting of the legislative finance committee. Except as provided in subsection (2), the expenditure of money appropriated in the general appropriations act is contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original operating budget must comply with state law and conditions contained in the general appropriations act.

(b) For the purposes of this subsection (1), an agency or program is considered to have a significant change in its scope, objectives, activities, or expenditures if:

- (i) the operating budget change exceeds \$1 million; or
- (ii) the operating budget change exceeds 25% of a budget category and the change is greater than \$25,000. If there have been other changes to the budget category in the current fiscal year, all the changes, including the change under consideration, must be used in determining the 25% and \$25,000 threshold.

(2) The expenditure of money appropriated in the general appropriations act to the board of regents, on behalf of the university system units, as defined in 17-7-102, is contingent upon approval of a comprehensive operating budget by October 1 of each fiscal year. The operating budget must contain detailed revenue and expenditures and anticipated fund balances of current funds, loan funds, endowment funds, and plant funds. After the board of regents approves operating budgets, transfers between units may be made only with the approval of the board of regents. Transfers and related justification must be submitted to the office of budget and program planning and to the legislative fiscal analyst.

(3) The operating budget for money appropriated by the general appropriations act must be separate from the operating budget for money appropriated by another law ~~except a law appropriating money for the state pay plan or any portion of the state pay plan~~. The legislature may restrict the use of funds appropriated for personal services to allow use only for the purpose of the appropriation. Each operating budget must include expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3). Each agency

shall record its operating budget for all funds, other than higher education funds, and any approved changes on the statewide budget and accounting state financial system. Documents implementing approved changes must be signed. The operating budget for higher education funds must be recorded on the university financial system, with separate accounting categories for each source or use of state government funds. State sources and university sources of funds may be combined for the general operating portion of the current unrestricted funds."

{ Internal References to 17-7-138: None. }

Insert: "Section 22. Section 17-7-139, MCA, is amended to read:

"17-7-139. Program transfers. (1) (a) Unless prohibited by law or a condition contained in the general appropriations act, the approving authority may approve agency requests to transfer appropriations between programs within each fund type within each fiscal year. ~~The legislature may restrict the use of funds~~ Funds appropriated for personal services to allow use may be used only for the purpose of the appropriation and funds not appropriated for personal services may not be used for personal services.

(b) An explanation of any significant transfer must be submitted on a regular basis to the interim committee that has program evaluation and monitoring functions for the agency pursuant to Title 5, chapter 5, part 2. An explanation of any transfer that involves a significant change in agency or program scope, objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment by the legislative finance committee prior to any implementation of the change. If the approving authority certifies that a request for a transfer representing a significant change in agency or program scope, objectives, activities, or expenditures is time-sensitive, the approving authority may approve the transfer prior to the next regularly scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed time-sensitive changes to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines that notification of the legislative finance committee is warranted, the legislative fiscal analyst shall immediately notify as many members as possible of the proposed change and communicate any concerns expressed to the approving authority. The approving authority shall present a report fully explaining the reasons for the action to the next meeting of the legislative finance committee. All program transfers must be completed within the same fund from which the transfer originated. A request for a transfer accompanied by a justification explaining the reason for the transfer must be submitted by the requesting agency to the approving authority and the office of budget and program planning. Upon approval of the transfer in writing, the approving authority shall inform the legislative fiscal analyst of the approved transfer and the justification for the transfer.

(c) If money appropriated for a fiscal year is transferred

to another fiscal year, the money may not be retransferred, except that money remaining from projected costs for spring fires estimated in the last quarter of the first year of a biennium may be retransferred.

(2) For the purposes of subsection (1) (b), an agency or program is considered to have a significant change in its scope, objectives, activities, or expenditures if:

(a) the budget transfer exceeds \$1 million; or

(b) the budget transfer exceeds 25% of a program's total operating plan and the transfer is greater than \$25,000. If there have been other transfers to or from the program in the current fiscal year, all the transfers, including the transfer under consideration, must be used in determining the 25% and \$25,000 threshold."

{Internal References to 17-7-139:

53-6-1101x}"

Renumber: subsequent sections

9. Page 19, line 16.

Insert: "NEW SECTION. **Section 25. Performance audit.** The legislative auditor is requested to conduct a performance audit of the broadband classification pay plan after July 1, 2008."

Renumber: subsequent sections

10. Page 21, line 1.

Strike: "23"

Insert: "27"

Strike: "25"

Insert: "29"

- END -